

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Thomas Juliano	Team: Squad #11	CCRB Case #: 201803390	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 05/01/2018 2:30 PM	Location of Incident: § 87(2)(b)	Precinct: 19	18 Mo. SOL 11/1/2019	EO SOL 11/1/2019	
Date/Time CV Reported Tue, 05/01/2018 2:55 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 05/01/2018 2:55 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Janine Micheli	10863	929755	019 PCT
2. POF Cecilia Medina	24756	927191	019 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Janine Micheli	Abuse: Police Officer Janine Micheli entered § 87(2)(b) § 87(2)(b) in Manhattan.	§ 87(2)(b)
B.POF Cecilia Medina	Abuse: Police Officer Cecilia Medina entered § 87(2)(b) § 87(2)(b) in Manhattan.	§ 87(2)(b)

### Case Summary

On May 1, 2018, § 87(2)(b) a reporting non-witness, filed this complaint on behalf of § 87(2)(b) with the CCRB over the phone.

On May 1, 2018, at § 87(2)(b), § 87(2)(b) the head contractor who § 87(2)(b) hired to renovate his apartment, had a dispute with a subcontractor who quit the job before completing the work that he was hired to do. The subcontractor left his tools inside the apartment. The subcontractor was paid in full, and § 87(2)(b) did not permit the subcontractor back into the apartment to retrieve his tools until the money was paid back. On May 1, 2018 at 2:30 p.m., while § 87(2)(b) and § 87(2)(b) were out of the apartment, PO Janine Micheli and PO Cecilia Medina of the 19<sup>th</sup> Precinct escorted the subcontractor to § 87(2)(b)'s apartment, entered the apartment, and allowed the subcontractor to retrieve his tools. (**Allegation: A – Abuse of Authority,** § 87(2)(g) (**Allegation: B – Abuse of Authority,** § 87(2)(g)

Neither § 87(2)(b) nor § 87(2)(b) witnessed this incident.

There are no video recordings of this incident.

### Findings and Recommendations

**Allegation A – Abuse of Authority: Police Officer Janine Micheli entered § 87(2)(b) in Manhattan.**

**Allegation B – Abuse of Authority: Police Officer Cecilia Medina entered § 87(2)(b) in Manhattan.**

§ 87(2)(b) who was not present for the incident, stated that he was having his apartment renovated and that § 87(2)(b) was the head contractor handling the renovation. A subcontractor was paid in full to repair the floors; however, he quit the job before completing the work. § 87(2)(b) subsequently did not allow the subcontractor into the building to retrieve his tools until the subcontractor paid back the money. PO Micheli and PO Medina accompanied the subcontractor to the apartment, entered, and allowed the subcontractor to retrieve his tools without § 87(2)(b)'s permission. § 87(2)(b) had personal belongings in the apartment, and it was not an open worksite.

§ 87(2)(b) § 87(2)(b) the interior designer for the renovation, was present in the apartment during the incident along with three other construction workers. § 87(2)(b) § 87(2)(b) stated that she was in another room when one of the workers called her name. § 87(2)(b) § 87(2)(b) exited the room and saw PO Micheli and PO Medina standing inside the apartment near the front door with the subcontractor and the three other workers. § 87(2)(b) § 87(2)(b) did not see how the officers entered the apartment nor did she hear anyone give the officers permission to enter. The officers told § 87(2)(b) § 87(2)(b) that the subcontractor needed to get his tools. § 87(2)(b) § 87(2)(b) told the officers that they needed to get in touch with either the client or the head contractor, as she had nothing to do with the situation. The officers then told the workers that the tools belonged to the subcontractor, and that he had the right to retrieve them. The subcontractor then retrieved the tools and left with the officers.

Despite extensive efforts to obtain the names or contact information of the construction workers who witnessed the incident, the investigation was ultimately unable to reach them. **(Board Review 05)**

PO Medina stated that upon knocking on the door, a woman, identified by the investigation as § 87(2)(b) answered the door and stated that she was either the project manager or the designer. PO Medina told § 87(2)(b) that the subcontractor needed to get his tools and § 87(2)(b) stated that she did not have a problem with the subcontractor retrieving his tools and gave the subcontractor and the officer's permission to enter the apartment. Neither PO Medina nor PO Micheli made any attempt to contact the owner of the apartment before entering.

PO Micheli's statement was consistent with PO Medina's.

The role of a uniformed member of service when called to the scene of a civil process situation is to preserve the peace and prevent the commission of a crime. The execution of a warrant of eviction is the sole responsibility of the city marshal/sheriff. Patrol Guide Procedure 214-13. **(Board Review 06)**

According to United States v. Matlock, 415 U.S. 164 (1974); a third party has the authority to consent to a search when they have mutual use of a property, joint access, and control for most purposes **(Board Review 07)**. According to United States v. Garcia, 690 F.3d 860 (2012), an employee having access to a dwelling is not enough to establish authority to consent to a search. An employee, such as a babysitter or hotel staff, has authority over a residence that is limited and specific, and they are not authorized to compromise the resident's privacy beyond what they have to do to perform their authorized tasks. **(Board Review 08)**

§ 87(2)(g)  
[REDACTED]

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint in which § 87(2)(b) and § 87(2)(b) have been a party. **(Board Review 01)**
- PO Micheli has been a member-of-service for 16 years. PO Micheli has only one additional CCRB complaint in which an allegation of Abuse-Refusal to process civilian complaint was substantiated. PO Micheli received command level instructions.

- PO Medina has been a member of service for 17 years. PO Medina has only one additional CCRB complaint in which an allegation of Abuse-Vehicle stop was substantiated. PO Medina received command discipline A.

**Mediation, Civil and Criminal Histories**

- § 87(2)(b) rejected mediation.
- On August 2, 2018, an inquiry was filed with the New York City Comptroller's Office to locate a notice of claim for § 87(2)(b) Results are pending. **(Board Review 02)**
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

---

Squad No.: 11

Investigator: \_\_\_\_\_

Signature	Print Title & Name	Date
-----------	--------------------	------

Squad Leader: \_\_\_\_\_

Signature	Print Title & Name	Date
-----------	--------------------	------